

## IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, THIRD APPELLATE DISTRICT FEB 15 2017

COURT OF APPEAL - THIRD DISTRICT  
ANDREA K. WALLIN-ROHMANN, CLERK

JAMES E. HORTON,

Petitioner,

vs.

THE SUPERIOR COURT OF THE STATE  
OF CALIFORNIA, COUNTY OF YOLO,

Respondent;

The People of the State of California,  
Real Party in Interest.

Superior Court No.

15-6705, 13-3628, 13-23865, 14-1219

Court of Appeal No.

C 084025

PETITION FOR WRIT OF MANDATE

AND MOTION TO JOINDER CAUSES

FOR EXTRAORDINARY RELIEF

STAY OF PROCEEDINGS REQUESTED

FOR PROCEEDINGS PRESENTLY SET OF 02162017 AND 02212017 for multiple matters (including: continued sentencing inordinately delayed, warrant review, Faretta motion, 3 pre-trial conferences and more) in four separate cases all pending delayed beyond statutory timeline violating Speedy Trial Rights;

After Gross Procedural Default untimely ignoring two separate Petitions for Writ of Mandate filed in Appellate Division of Respondent Court  
By reviewing Judge Paul K. Richardson of the Superior Court of the State of California, County of Yolo (Phone number: 530-406-6705, Appellate Division);

AND

After Wrongful Conviction upon Wrongful Verdict during a mistrial while Judgement is inordinately delayed  
By Presiding Judge Daniel P. Maguire of the Superior Court of the State of California, County of Yolo (Phone number: 530-406-6705).

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Petitioner Self-Representing

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### Statutes

CA PC § 1382

### Cases

*Degeorge v Superior Court* (1974) 40 Cal. App. 3d 305

*Gallagher v Municipal Court of City of Los Angeles* (1948) 31 Cal. 2d 784; *in re Buckley* (1973) 10 Cal. 3d 237

*Harris v Municipal Court* (1930) 209 C 55

*Jackson v Superior Court* (1991) 230 Cal. App. 3d 1391

*Jones v Superior Court* (1970) 3 C3d 734

*Serna v Superior Court* (1985) 40 C3d 239

*Sykes v Superior Court* (1973) 9 C3d 83

*U.S. v Marion* (1971) 404 US 307

*Rice v Superior Court* (1975) 49 CA3d 200

*Rose v Superior court in and for Los Angeles County* (1934) 140 Cal. App. 418

*People v Wilson* (1963) 60 C2d 139

*Plezbert v Superior Court* (1971) 22 CA3d 169

U.S. Const., 6<sup>th</sup> Amend.

JAMES E. HORTON,	)	Superior Court No.
	)	15-6705, 13-3628, 13-23865, 14-1219
Petitioner,	)	
	)	Court of Appeal No. _____
vs.	)	
	)	PETITION FOR WRIT OF MANDATE
THE SUPERIOR COURT OF THE	)	AND MOTION TO JOINDER CAUSES
STATE OF CALIFORNIA, COUNTY	)	FOR EXTRAORDINARY RELIEF
OF YOLO	)	
	)	
Respondent;	)	
_____	)	IMMEDIATE STAY OF PROCEEDINGS
	)	REQUESTED
The People of the State of California,	)	
Real Party in Interest,	)	
	)	

**TO PRESIDING JUDGE OF THE COURT OF APPEAL THE STATE OF CALIFORNIA, COUNTY OF YOLO, THIRD APPEALLATE DISTRICT:**

Petitioner, James E. Horton, petitions this Court for a writ of mandate and stay of proceedings directed to respondent Court, and by this verified petition represents that:

1. Petitioner, James E. Horton, is Defendant in cases numbered 15-6705, 13-3628, 13-23865, and 14-1219 wherein he was arraigned on 12012016, 09172013, 12022013, 03242014 respectively alleging violations of PC § 415(1), PC § 148(A)(1), Sacramento Municipal Code 8.08.050 and Woodland Ordinance 7-4, and which are now pending in respondent Court, The Superior Court of the State of California, Yolo County. The People of the State of California, the Plaintiff in that action, are named in this petition as Real Party in Interest.
2. Respondent, the Superior Court of Yolo County, is now and at all times mentioned in this petition has been exercising judicial functions in connection with the action described in Paragraph 1 above.
3. All the proceedings about which this petition is concerned have occurred within the territorial jurisdictional of respondent Court and of the Court of Appeal of the State of California, Third Appellate District.

4. Petitioner has filed Petitions for Writ of Mandate relating to matters at hand herein on 04062016 and 04202016 in the Appellate Division of Respondent Court. Court responded issuing orders denying requested stays upon yet decisions upon Petitions on its merits are still pending being inordinately delayed and ignored.

5. Petitioner seeks extraordinary relief from this Court; the following circumstances make it proper and necessary that a writ issue from this Court: a) Extraordinary circumstances requiring immediate relief without remedy upon appeal are prima facie shown by prolonged Constraint of Liberty caused by gross abuse of discretion violating Speedy Trial Rights. b) Furthermore, Judgement is inordinately delayed post-conviction while further evidence (based on parties' action) betray Conspiracy to Commit Infractions malicious to (and to obstruct) Petitioner's Fundamental Right to Appeal. c) the matters involved are of public and general interest to the People of the State of California having bearing upon very weighty issues with respect to fundamental Constitutional Rights and require speedy resolution; d) they present questions of law not previously decided in the state; and for which there is an urgent need for uniformity of decision within the state.

6. Petitioner is a party having beneficial interest in issuance of a writ since Respondent has clearly prejudiced his fundamental right to a Speedy Trial, Due Process and Fair Trial by cumulative Retaliatory and Malicious Procedural Defaults and Prejudicial Denials. This Court should consider this case because of the grave nature of the issues presented, because of its significant legal impact, and in order to review questions at law that are of weighty significance to the bench and bar so that general guidelines can be laid down for future cases involving similar issues -- such as self-representation, prosecutorial harassment and malicious, Abuse of Legal Process.

7. The orders at issue are nonappealable. Under Extraordinary Circumstances mitigating, Petitioner has not been practicably able to file sooner. He is self-representing while indigent without income and while harassed by misconduct impeding its preparation unfairly. Meanwhile, Petition herein is overwhelmingly laborious and time-consuming requiring extensive research and addressal of complicated issues. Petition has been filed prior to readiness for appeal; Real Party in Interest (especially when weighing above without prejudice), furthermore, has not been prejudiced by a delay.

Despite diligent, full-faith effort of Petitioner to procure, court has refused to provide relevant transcripts as well as other documents requested. Therefore, he is unable to attach fully adequate record including pursuant to CA Rules of Court § 8.486(2) and needs to file without transcripts in accordance with CA Rules of Court § 8.486(3). (Please see Declarations attached.)

Therefore, weighing circumstances and factors and against merit of weighty substantive issues addressed within, it is in the interest of justice to consider petition to be filed timely and proper.

8. Petitioner has no right to appeal from respondent's decisions at issue and does not have a plain, speedy, or adequate remedy at law other than the extraordinary relief sought in this petition while Court is acting to maliciously obstruct and deny right to appeal unconstitutionally.

**WHEREFORE, here comes Petitioner, James E. Horton, moving this Court to:** 1. immediately stay all proceedings in primary case at issue, case: 15-6705, until further order of this Court of Appeal; 2. issue a peremptory writ of mandate commanding Respondent Court overturn conviction upon mistrial and wrongful verdict and dismiss charge because of denial of Petitioner's fundamental rights to Speedy Trial and Due Process; 3. Joinder all other cases named herein as causes for Extraordinary Remedy together with primary case, immediately stay all proceedings for each, and issue its peremptory writ of mandate commanding Respondent Court to dismiss all other respective charges (13-3628, 13-23865, and 14-1219) and to terminate all prosecutorial action against Petitioner with item #2 above; and 4. Any such other relief as may be appropriate and just.

Date: 02/15/07

Respectfully submitted,

  
James E. Horton, Pro se

## MEMORANDUM OF POINTS AND AUTHORITIES

### STATEMENT OF FACTS

Three years and seven months ago, prosecutorial action (still pending) was initiated against Petitioner, James E. Horton, by the West Sacramento Police Department. Since then, Public Officials of Yolo County, California (including judges of the Superior Court of Yolo County, California) together have committed the following actions (both in court and out-of-court colluding):

- The first case (case: 13-3628) amongst Malicious series of Prosecutorial Harassments initiated 06242013 charging violation of PC § 148(A)(1), Resisting Arrest. Immediately post arraignment, Public defender (Ron Howard) overzealously and inexplicably raised Unreasonable and Malicious Doubt of Petitioner's COMPETENCE TO STAND TRIAL during open pretrial conference. Howard based Doubt raised solely on police report without adequate consultation due per Fiduciary Duty respective to an Attorney's Oath. Furthermore, during same hearing, Public Defender requested to "Fast Track" said case as he verbalized according as to local procedure invented as termed (at least at current time). Procedure (anomalous and arbitrary) was granted upon his request. It prejudiced fundamental Due Process Rights prima-facie; therefore, in response, Petitioner filed a *Faretta* motion raising issue of Substantial Conflict Irreconcilable due to Incompetent and Ineffective Counsel by the Public Defenders' Office. Court granted, upon second *Faretta* motion, Waiver of Counsel and Self-Representation on 02242014. Since Waiver of Counsel, Petitioner filed pretrial motions (timely and proper with full merit) defending that prosecution lacked probable cause upon a pretextual, malicious, false arrest. These were prejudicially denied. Court maliciously continued pursuing wrongful prosecution. Petitioner continued challenging prejudicial errors and denials yet case is still pending.

- Subsequent to this first arraignment, an overburdening series of actions began. Four additional, frivolous charges initiated. At respective arraignments, Petitioner requested Public Defenders with mind to avoid unfair overburden to his Fair Trial and Due Process Rights during first pendency thus affected by added acts of prosecution. Counsel was appointed for three of them (Cases: 13-23865, 14-1219 and 14-4497).

- During pendencies, appointed counsel orally motioned for another anomalous procedure for all these subsequent cases together which Judge Daniel Maguire agreed to and ordered. Said to be "trailing," but not joindered, all cases versus Petitioner were made to be scheduled consecutively and concurrently on the docket. As a result, all hearings were scheduled for all cases simultaneously.

Scheduled hearings, actually, were discriminatorily truncated with obstructionist effect. Throughout, Maguire continually prejudiced Petitioner's time for

Due Process procedure to be heard on matters for even first case while others were postponed and said to be "trailing" as aforementioned. Ironically, abusing discretion, he rationalized claiming "interest of the time of the court" with an "overburdened docket." Contrarily, Petitioner continually argued: court Maliciously discriminated against him when considering same basis.

- Subsequent case: 13-23865 also initiated by the West Sacramento Police Department upon first contact on 100072013. Petitioner, on date, was charged with Illegal Scavenging pursuant to West Sacramento Municipal Code 8.08.050(A) for taking one bottle from a garbage can. Case is still pending in Criminal Court, postponed and hence delayed per "trailing" procedure even when case actually was arraigned in Traffic court, Department 10 (of old court house in Woodland) before presiding judge, J. Kent O'mara, on 12022013.

On 05092014, Petitioner appeared in Department 7 (of old court house in Woodland) of Criminal Court before Judge Maguire for hearing upon Motion to Dismiss in first case (13-3628). Suddenly, in open court, judge opened proceeding by presenting unexpectant Petitioner with the addition of this case to the Criminal Court docket. Judge called Public Defender, Karen Soell (present for other cases on same day's docket), to the bench since appointed at pretrial conference in case numbered: 13-23865 on 04092014. Per incompetent, arbitrary request of said public defender, Respondent court grossly abused discretion granting invented procedure that Due Process for said case "trail" case: 13-3628. Thereby, in effect, Due Process on subsequent case was postponed until completion of first case. Otherwise, court treated case as if joindered in error within minutes recorded, and yet severally, for each case. Counsel's request was without consent of Petitioner and without consultation. Consequently, procedure on it has thus far been totally neglected, then deprived – procrastinated on by public officials. Meanwhile, minutes for each proceeding are recorded severally for all case dockets simultaneously as scheduled concurrently (as if joindered without relevant nexus) and with inadequate time for oral hearing procedure imposed – gross procedural anomaly unjustifiable. (Please refer to Case summary Report reflecting minutes attached as Appendix F(1)(a).)

- Case: 14-1219 involves charge of a camping infraction initiated on 01312014. Likewise, as cited, it was scheduled for arraignment in Traffic court (as minor Infraction) – and on 03262014. Facts of incident upon which citation was based include: 1) Circumstantially, Petitioner was forced to self-represent (as above) as an indigent in a distant, foreign state and town; and 2) He sat under an overhang to escape rain (on said date) with unprotected case files and work product on his person. He informed the Woodland Police Officer of these exculpatory facts during an investigatory stop. Still, the officer, irrespective of Totality of Circumstances, cited charging violation of Woodland Ordinance 7-4, Camping on Private Property frivolously.



This case also was transferred in error to Department 7 of Criminal Court by anomalous procedure. Actually, (by malicious incompetence) two arraignments were set. As reflected by Minutes within Case summary report, an arraignment as scheduled aforesaid in Traffic Court for 03262014 was rescheduled (recorded in minutes to be "vacated"), ex-parte and out-of-court, to earlier date of 03242014 in Criminal Court, Department 7 (of old court house in Woodland) and "Assigned to Judge Maguire." Petitioner appeared on same date as scheduled for Trial Setting Conference in first case: 13-3628. He was suddenly presented unexpectedly with the addition of this case to the Criminal Court docket two days prior to its actual, original arraignment in Traffic Court. Petitioner was then spontaneously arraigned. He pled Not Guilty. Public Defender was appointed. At Pre-Trial Conference on 04292014, per request of Public Defender granted in error, said case was accrued to dockets of "trailing" cases as aforementioned (contrary to Petitioner's stated desires for defense). Case is still pending, "trailing" also neglected.

- Anomalous procedure motioned for aforesaid grossly prejudiced Petitioner prima-facie. By such gross abuses of discretion, Due Process has been grossly denied. Petitioner expressed contrary desires during very few, inadequate consultations with counsel. Furthermore, although cases subsequent were repeatedly vacated (unspoken) as "trailing," still records (Minute Sheets and Case Summary Reports) falsely reflect "Matter Heard" for hearings in each severally. Thereby, cases have compounded together to Overburden simultaneously. Above also constitutes extreme Abuse of Legal Process violating petitioner's Speedy Trial and Fair Trial Rights. Repeatedly (both to counsel in meeting and in open court), he has raised discrepancy about these acts of Procedural Misconduct and Harassment. Continually, he has been prejudicially ignored on issue. Court has responded only incrementally more and more Malicious and Retaliatory.

- During pendencies, Court obligated Petitioner to attend total of 45 pretrial hearings and 3 days of 1 trial for which sentence hearing and judgement are delayed. The trial is not concluded. Hearings have resulted in a long train of blatant prejudicial denials flying in the face of Constitutional Rights.

- Since commencements, Petitioner successfully raised issues of substantial conflict due to ineffective counsel (completely adverse to adequate defense violating attorney-client privilege and Attorney's Oath) and right to waive counsel. Therefore, court granted right to self-represent in all case during oral hearing on 12072015 upon reasoning above herein. Need for competent counsel necessitated assertion of right – Petitioner is law trained.

- A case: 14-4497 initiated by Woodland Police Department alleging violation of PC § 415(1). Facts are that a Corporal baited Petitioner by blocking entrance to Police Station retaliating against his intent to acquire a citizen's complaint form concerning prior misconduct. Said case was dismissed upon motion

to dismiss (of Petitioner, Pro Se) and for lack of sufficient evidence on 01272016. As a result, Petitioner cause for civil action.

- Numerous times, in various ways, within pretrial motions to dismiss with merit, Petitioner has raised point headed as follows: DEFENDANT'S RIGHT TO FAIR TRIAL PREJUDICED BY PROTRACTED RESTRAINT OF HIS LIBERTY TO AN AREA.

- Present case primarily at issue (15-6705) initiated with a Malicious Arrest on 02182015 in Woodland, CA made solely on information uncorroborated and during accuser's dispatch call – a false, malicious report. Arrest was made away from scene of incident. Original complaint alleged violations of two charges: PC § 647.6(A), Annoy/Molest Child, and PC § 415(1), Fight/Challenge Fight. Arraignment was scheduled on 05142015 at Respondent Superior Court.

Prior to arraignment aforementioned, Prosecution rejected said case for "lack of sufficient evidence." (On date, Petitioner arrived; court was not even in session. Inquiring at clerk of court and the D.A. Office, he learned of rejection by a hand-delivered letter. Letter was addressed to "indigent" without mailing address provided on served motions.) On 12072015, however, at trial readiness for first case: 13-3628, Judge Maguire opened hearing informing of a new act of prosecution charging violation of PC § 415(1) with 647.6 dropped for lack of sufficient evidence. The Court immediately expedited this new case reinitiated to trial as primary emphasis on docket. Maguire set continuances for other (prior) cases per "trailing" procedure. Conspicuously, timing of action was tactical toward Abuse of Legal Process with intent to Overburden Petitioner's Right to Fair Trial.

- On 02172016, Petitioner filed *Common Law Motion to Dismiss Because of Denial of Right to Speedy Trial, Due Process and Fair Trial* in case: 15-6705 arguing: Bad-faith delay of nine and one half months, without showing of good cause, from arrest to arraignment, constituted "procrastination of public officials" denying Fundamental Rights. (Please refer to Appendix E.) Also, on 02192016 he filed *Notice of Motion to Dismiss Because of Denial of Right to Speedy Trial* responsive to Prosecution's untimely disclosure of discovery, and in open court, during jury trial date on 02152016. Therein, he addressed: "Procrastination of public officials has caused (another) two months of bad-faith delay... pursuant to PC ss 1382 (30-day rule)" since case needed continuance until 04112016. Court prejudicially denied both motions on 03232016. (Please refer to Appendix D.)

- On 04202016, Petitioner filed *Petition for Writ of Mandate and Request for Stay of Proceedings... After Denial of Common Law Motion to Dismiss Because of Denial of Right to Speedy Trial, Due Process and Fair Trial and Notice of Motion to Dismiss Because of Denial of Right to Speedy Trial Regarding Charge of Violation of CA PC 415(1)* arguing points: JUDGE PREJUDICALLY ERRED BY MALICIOUS

**IGNORANCE OF PETITIONER'S FULLY MERITORIOUS ARGUMENT, and DEFENDANT IS PREJUDICED BY RESTRAINT OF LIBERTY TO AN AREA.**

As result, at trial readiness conference scheduled 04212016, trial was vacated until 06152016 for time in lieu of decision pending upon request for stay. (Prosecutor Fritz Van Der Hoek filed his opposition 05092016... please refer to Appendix C.) Decision upon is still pending untimely delayed by Appellate Division of Respondent Court. In full-faith effort, Petitioner visited clerk multiple times seeking said decision. Court continually informed Petitioner that said Petition has been sent for scrutiny to such as called an "Attorney Unit" since 05092016 being same date prosecution filed its opposition. Facts provided concerning status raise serious suspicions about ex-parte, out-of-court contact with judge.

- Actually, proceedings since 06222016 constituted "Mistrial." At continued trial readiness on 06152016, Petitioner, again, requested continuance (with showing of cause and merit) in lieu of inordinate, untimely delay (by Appellate Department) of decisions upon his Petition for Writ of Mandate and Request for Stay therein. In response, Judge Maguire: 1) vacated conference until 06172016; 2) then, ordered parties to "file papers" (and by vacated date of 06172016) informing Appellate Department concerning delays as above. Thereby, only less than two days were given for motion practice, per order, with disregard for statutory procedure at issue (reasonable deadlines). On 06172016, prior to hearing, Petitioner (being procedurally overburdened unfairly) filed an ANSWER TO RESPONDENT'S REPLY BRIEF addressing, as order, issue of said delays. (Please refer to Appendix F(3).)

At continued hearing on 06172016, Judge Maguire informed of denial of stay and set jury selection to begin 06222016. Court prejudicially denied his motions for mistrial. Petitioner (at least) twice orally moved for mistrial upon above facts; he motioned on same date, in open court (06172016), and then during evidentiary procedure hearing (06222016). Judge reasoned, in part, that he only accepts motions in writing (and during oral argument proceedings).

- Post further gross abuses of discretion occurring between 06152016 and 06172016, trial wrongfully proceeded on 06222016. Several Due Process violations occurred during trial. Just three examples are as follows:

- During voir-dire selection on 06232016, Supervisor of Woodland Police Department's Detective Unit was detected in jury box. Said presence of Officer (Agent of Party in Interest) evidenced intent to collude and conspire in acts of tampering and/or unduly coercing the jury – evidence of a "tainted" jury.
- During fact-trying, prosecution based its case solely upon non-corroborated, unproven accusation of one accuser. Evidence presented (by prosecution) included:

1. Fabricated facts testified by informant as first witness [(being incompetent, irrelevant to charge, inconsistent and contradictory and thus challenged by Petitioner's motion to impeach on the record, and during cross-examination) (*Black's Law Dictionary* 409 Abridged 6<sup>th</sup> edition 1991)],
  2. Electronic audio recording of dispatch call – the initial accusation – reported by said first witness (which included audible background of Petitioner, from a distance, orating about the false report while departing),
  3. Second and last witness, Officer Guthrie of the Woodland Police Department testified that he did not witness incident at scene of complaint while further parol testimony only evidenced that Petitioner had departed scene of incident without Fighting.
- Yet, jury reached wrongful verdict of "guilty" and Petitioner was wrongfully convicted of violation of PC ss 415.

Furthermore, trial, to this date, is still incomplete. Court is delaying sentencing, hence judgement, egregiously inordinate. Jury decision and verdict on 06242016 has been last trial decision thus far. Judge, on same date, continued sentencing phase until 06292016. Therefore, under such "Extraordinary Circumstances" (specifically with respect to delayed sentencing and judgement in bad-faith), Petitioner, on 06282016, filed *Motion to Vacate Judgement* arguing following headed points: CASE IS STILL PENDING UPON INORDINATELY DELAYED DECISION ON (PETITIONER'S) PETITION FOR WRIT OF MANDATE, and that FAIR TRIAL PREJUDICIALLY HARMED BY UNDUE INFLUENCE UPON JURY. (Please refer to Appendix F(5).)

- On 06292016, at continued sentencing hearing, Maguire (conspicuously) retaliated maliciously against my most recent motion and with motive and intent to preemptively obstruct Post-Trial and succeeding causes for civil actions. On the record, the hearing was completely one-sided – Obstructionist. Petitioner appeared prepared to orate in support and in defense on issues relevant to sentencing by statute; He attempted to raise and then asserted to raise them. Maguire blatantly denied Due Process precluding right to speak. Continually, he interrupted attempts to assert right for hearing on matter. Furthermore, he reversed accused Petitioner overbearingly insisting he not "interrupt." Maguire also forbade

right to state objections during an Unconstitutional, ex-parte "presentation" by the District Attorney's Office.

**Court acted to unjustly Duress Petitioner to accept settlement offer for a nonstatutory, Unconstitutional alternate to sentencing. Judge opened with prosecution. A Christopher Bulkley, Deputy District Attorney appeared present – not prosecutor on record in the case and during trial (Fritz Van Der Hoek). Bulkeley gave improper, prepared presentation endorsing (on record) a newly conceived "program" – the "Diversionary Homeless Program." Accordingly, Petitioner would be Coerced to concede to Admission of Guilt, progress through stages of a thought-control program, accept "Incompetent to Stand Trial" status and controlled, free housing for indefinite period of time (when I am not even native to this state or county).**

Since I rejected said offer stating it to be unconstitutional on the record, Maguire persisted to Maliciously Retaliate with Gross Abuse of Discretion. Bulkeley reiterated intent to Maliciously Raise Doubt about Competence to Stand Trial! Maguire threatened (even Blackmailed) with Prejudice in Sentencing Phase – an excessive, maximum jail term (upon wrongful conviction while refusing to hear Petitioner on issues at hand for which he came prepared) as ultimatum to offer – an alternate to statutory punishments diverting Post-Trial Due Process. He Vindictively revoked Right to Self-Represent during sentencing and appointed Public Defender for counsel in error. Court specified revocation to be "... ON THIS CASE ONLY FOR SENTENCING." (Please see Appendix F(1)(e).) Judge verbally confirmed, per Petitioner's inquiry in open court, Petitioner otherwise remains Pro-Se in all cases. As reasoning, Maguire rationalized malicious prejudice against Petitioner's aggressive defense as behavior indicating mental incompetence. He argued oversimply: Petitioner's rejection of said counsel was believed by himself to be "irrational." Furthermore, Respondent refused to permit objections to Unconstitutional Acts of "forcing a lawyer" upon a defendant while fully aware of Irreconcilable, Substantial Conflict with same counsel. Court continued sentencing until 07132016. Petitioner filed *Faretta* motion on 07112016. (Please see Appendix F(6).)

- On 07132016, Judge Maguire, in Department 10, was occupied by another incomplete trial and was unavailable. Upon appearing, Petitioner was informed by Bailiff that court transferred hearing to Department 9, Traffic Court before Judge J. Beronio in lieu of the overburden to "the time and resources of the court. Therefore, due to complications of case, the court then continued sentencing until 07272016 at 1000 in Department 10.

- On 07272016, Petitioner appeared at 1000 for continued sentencing hearing. Judge Maguire blatantly obstructed Due Process refusing to hear Petitioner upon issues for which he came prepared. Court claimed "FAILURE TO APPEAR" as reflected within minutes and case summary reports, yet maliciously granted

prosecution's oral motion to charge with Contempt for "(mis)behavior in court." Post judge's communicated refusal (at the bench) to hear Petitioner, and on record, he grossly Abused Legal Process issuing bench warrant. Court delivered Minute Sheet reflecting that a warrant review hearing was set for 08242016. Date was already overburdened with hearings scheduled on compounded matters: vacated sentencing, oral argument upon Faretta motion, and neglected matters in all other cases, etc.

- Date for case 15-6705 concurrently with case 14-1219 has been set for 02162017. Meanwhile, continued "trailing" date for case 13-3628 concurrently with 13-23865 has been set, separated from others, for 02212017. Scheduling occurred as result of 2 separate false arrests upon 4 false bench warrants by Woodland Police Department on 11152016 and 11212016.

Petitioner holds issued warrants constituted gross abuse of discretion and malicious Abuse of Legal Process on following grounds: 1. Although absent in Respondent court on 08242016, Petitioner was circumstantially unable to appear. He was occupied with procedure of serving Petition for Extraordinary Writ and while indigent, without adequate transportation and distant. 2. Petitioner requested stay of proceedings within Petition aforesaid. 3. Hearing date on 08242016 was set for multiplicity of matters in all cases simultaneously being continued since 07272016. Colluding public officials exploited anomalous "trailing" procedure to harass Petitioner with multiplication of warrants and arrests upon single hearing. Petitioner was, during this time, constantly active preparing for sentencing and motion practice. Frivolous restraints disrupted his abilities to prepare and practice. (Please refer to Appendix F(8).)

- On 08192016, Petitioner filed Petitioner for Writ of Habeas Corpus in Court of Appeals – Third District.
- On 11092016, Officer of Woodland Police Department frivolously stopped and questioned Petitioner. He arrested upon single bench warrant for case: 15-6705. During booking, Yolo County Sherriff's Department, and on same date, also scheduled hearing for case: 14-1219 concurrently prior to release.
- On 11212016, two officers of Woodland Police Department approached Petitioner traversing sidewalk in Woodland. One officer abruptly and informally inquired of Petitioner for his name. Petitioner questioned concerning Reasonable Suspicion and officer responded that they were not stopping – "only saying hello." Petitioner continued traversing.

Within minutes thereafter, hundreds of feet away, Officers approached in separate squad cars with lights on and detained without Reasonable Suspicion upon an incident. They communicated: 1. Immediately after discovering name questioned for, they inexplicably initiated contact with the West Sacramento Police Department concerning outstanding warrants alleged to be issued by same agency, and 2. They

quickly discovered two warrants alleged to be issued by nonlocal agency for failures to appear in cases 13-3628 and 13-23865 when records of did not retrieve in their local databases. Officers arrested. They refused Petitioner's desperate pleas for his possessions meanly to be collected and booked into property release despite explanation that they included his case documents, work-product and law resources. Officers refused exculpatory information respective to the clearing of warrants upon recent arrest on 11092016. During booking, Yolo County Sherriff's Department originally processed both cases aforesaid setting date of 02212017 for both as if joindered. Prior to release, agency then redacted processing for case: 13-23865.

On 11212016, Petitioner administratively addressed procedural default effecting remainder of outstanding warrant for arrest over one hearing. A sheriff set date by citation for case 13-23865 concurrent with case 13-3628 on 02212016 at 0930 in Department 1.

- Finally, Case 13-3628 is still pending inordinately delayed and ignored while decision upon Writ of Mandate in said case is still delayed and ignored.

#### RULE OF LAW

(Please refer to memorandums within motions attached hereto as appendices.)

#### ANALYSIS

##### A. DEFENDANT'S RIGHT TO FAIR TRIAL PREJUDICED BY PROTRACTED RESTRAINT OF HIS LIBERTY TO AN AREA

A total accumulation of four criminal matters have overbearingly initiated by the Yolo County District Attorney's Office. Meanwhile, procrastination by public officials in these matters is overbearing upon the Defendant a type of Prosecutorial Harassment that is Bordering on Arrest by unjustly depriving Defendant of liberty and, also, life in that his opportunities for employment are disrupted; associations (such as Church affiliations) are severed and impaired unto ruination (with isolation – deep-seated ostracization) by protracted, punitive, procedural siege in a foreign region. Concurrently, impoverished without domicile, Defendant must expend time-consuming effort toward life-sustaining activities while balancing deliberative, exhaustive labor of Criminal Defense (once again – without income). Having, by necessity, to self-represent in such circumstances is depleting his resources; imposing impediments to conducive working conditions; retarding his ability to prepare for trial as a Fair Trial issue; inducing anxiety and inflicting distress reasonable to expect by reasonable person's standard.

Furthermore, Defendant is forced by necessity to self-represent (in all four cases) due to severely substantial conflict with counsel being in an unfair conflict with agents of the state. The pivotal case on the federal question concerning definition of standards for determining competence to self-represent, *Indiana v. Edwards*, spawned contributory research and analysis at issue for application in the states. In *The Journal of the American Academy of Psychiatry and the Law*, "Psychiatrists

Morris and Frierson published a clinical study on choice to exercise Right to Self-Represent as a phenomena with analysis toward "professional guidelines related to forensic psychiatric practice" and "limitations of the decision..." The Defendant found article annotated in either *California Jurisprudence* or *American Jurisprudence* or some similar secondary authority for research under the topic of Competence to Self-represent confronted with in Case numbered 13-0003626 and for his *Faretta* motion.

Amongst positive reasons for such choice, vindicated by these researchers, include, "... little trust in the fairness of the legal system" when it is reasonable to believe that Fiduciary Interests of "public defenders" are compromised since "they are employees of the state" (Douglas m. Morris, MD, and Richard L. Frierson, MD, *Pro Se Competence in the Aftermath of Indiana v. Edwards*, 36 J Am Acad Psychiatry 551-557 (2008)). Obviously, such determinants would constitute an unfair conflict between a Defendant and Agents of the State necessitating self-representation for any adequate defense (especially if defendant is indigent). Defendant, and rationally by his experience, claims: evidence shows such a condition exists in this case pending (as well as others pending simultaneously) giving rise to a severely substantial conflict because of gross ineffective counsel by public defenders.

According to *Serna*, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (*Serna v Superior Court* (1985) 40 C3d 239). Furthermore, this Court reasoned, quoting from *U.S. v Marion*:

"Inordinate delay between arrest, indictment and trial may impair a defendant's ability to present an effective defense. But the major evils protected against by the speedy trial guarantee exists quite apart from actual or possible prejudice to an accused's defense. To legally arrest and detain, the Government must assert probable cause to believe the arrestee has committed a crime. Arrest is a public act that may seriously interfere with a Defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to (reputation harm), and create anxiety in him, his family and friends..." (*U.S. v Marion* (1971) 404 US 307 as quoted in *Serna v Superior Court* (1985) 40 C3d 239).

Proceeding on these actions would not serve justice, but only prejudice the Petitioner in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, he did not have outstanding warrants, nor a criminal record. Indigent, Petitioner is not resident to the area. He intends to move on and tend to important life matters, yet his liberty to move is restrained by violation of Speedy Trial Rights – and without income – in proceedings pending for total of over three and one-half years in Respondent Court. Finally, in lieu of above, Petitioner has already



punitively suffered in excess of maximum sentences for all cases together in total by said restraints.

#### **B. POINT IN SUPPORT OF JOINDERING CLAIMS FOR EXTRAORDINARY RELIEF**

Petitioner's Fair Trial and Due Process Rights have been prejudiced prima-facie in each case by anomalous procedures ordered throughout all pendencies together. All prosecutorial actions named herein (cases 13-3628, 1323865, 14-1219 and 15-6705) are connected together in same schema effecting accumulated Overburden unfairly constituting Abuse of Legal Process via Retaliatory and Malicious Prosecutorial and Procedural Harassment. They all have been initiated against Petitioner upon complaints by Real Party in Interest alleging charges. As Gross Abuses of Discretion by Respondent Court, they prove Conspiracy to Commit Infractions against Petitioner's Fundamental Rights amongst Agents of the State in Yolo County colluding.

Pursuant to CA CCP § 1109, petition for Extraordinary Writ initiates a form of civil action and rules of procedure prescribed in CCP § 307-1062.20 apply. Pursuant to CCP § 427.10), a cross-complainant may join any causes of action he or she has against party making complaint against the same. The purpose of statutory provision for joinder "is to permit joinder in one action of several causes arising out of related transactions and involving common issues. The statute should be liberally construed so as to permit joinder whenever possible in furtherance of this purpose" (*Moe v. Anderson* (2012) 207 Cal. App. 4<sup>th</sup> 826).

For purposes of this Petition for Extraordinary Writ, Petitioner is same as cross-complainant by definition. He possesses these multiple civil causes of action for relief with merit against same party being Real Party in Interest named herein. Therefore, it is in the interest of justice that this court joinder said cases as causes together and issue its peremptory writ ordering Respondent to dismiss in all cases and terminate all prosecutorial actions aforesaid.

#### **C. PETITIONER PREJUDICED BY WRONGFUL CONVICTION SINCE COURT CONDUCTED IMPROPER ARRAIGNMENT**

Court's Case Summary Report reflects as record that "Defendant waived FORMAL ARRAIGNMENT" as falsification of fact. Act constitutes procedural default justifying Habeas Corpus review.

Petitioner arrived for Pre-Trial Conference on 12/07/2015 for previous case: 13-3628. Unexpectedly, Judge instead confronted Petitioner with charge the subject of present case at issue. Court failed to set arraignment date at initiation of new charge presented as aforementioned. Arraignment was expedited on instant without granting right to prepare. Previous case stayed said to be "trailing." New case, case: 15-6705,

continued toward trial consistent with Petitioner's oral plea of "Not Guilty" (as if prejudicing such words on any papers maliciously); yet, court record reflects Petitioner waived formal arraignment. Petitioner also waived right to counsel knowingly and intelligibly (See Exhibit C).

Court Prosecutorial and Procedurally harassed by setting Trial Readiness Conference for Jury Trial, "fast-tracked" new case (15-6705) with improper precedence, for 12182015. Also, Trial was set for 02012016 for case: 14-4497 which subsequently was dismissed upon Petitioner's Speedy Trial motion and "lack of sufficient evidence."

Framers have intended, "... arbitrary methods of prosecuting pretended offenses, and arbitrary punishments upon arbitrary convictions, have ever appeared to me to be the great engines of judicial despotism; and these have all relation to criminal proceedings. The trial by jury in criminal cases, aided by the habeas-corpus act, seems therefore to be alone concerned in the question. And both of these are provided for, in the most ample manner, in the plan of the convention" [The Federalist No. 83 (Alexander Hamilton)].

Wherefore, here comes James E. Horton, Pro Se, moving this court for review of lower courts acts of wrongful, vindictive prosecution and to liberate Petitioner from unlawful Imprisonment (Restraint of Liberty) with its writ ordering lower court to overturn conviction, and terminate all Prosecutorial action against him (*Ex Parte Watkins* (1830) 28 US 193).

#### D. PLEASE... STAYS REQUESTED ARE NECESSARY SINCE VENUE OR RESPONDENT COURT HAS BECOME RETALIATORY HOSTILE TO PETITIONER'S FUNDAMENTAL RIGHTS

Petitioner has just cause for seeking order terminating further obligations to appear in Respondent Court. Case history of lower court's actions (obviously) demonstrates premeditated misconduct designed (with motive and intent) to bait and provoke Petitioner, entrap with contempt, while colluding with Party in Interest and other Agents of the State within County of Yolo to violate with False Imprisonment.

In support, Petitioner included following point within Petition for Wrt of habeas Corpus filed in Court of Appeals, Third District on 08192016:

#### COURT PREJUDICIALLY ERRED IN ORDERING WARRANT FOR ARREST CHARGING CONTEMPT OF COURT

At 1330 on 007272016, post gross denial of process during 1000 docket, presiding judge (Daniel Maguire) overzealously ordered warrant for arrest charging vindictive acts of misbehavior by Petitioner upon Prosecutor's request ex parte. Judge prejudicially

erred in granting order with motive to retaliate by act of vindictive Prosecution in a Conspiracy to Commit Constitutional violations.

On Wednesday 07272016 at 1000, as Defendant self-representing, Petitioner arrived to appear for hearing upon motions at the Superior Court, Yolo County Department 10. As overburdening, arbitrary procedure, hearing was upon 3 separate matters in 2 separate cases. By noon, Petitioner was blatantly denied hearing although present. Judge called break for lunch at end of calendared docket session. He then, as recurrence amongst 47 hearings frequented by such prejudicial treatment, rationalized that my cases involve too many issues and take too long. Meanwhile, matters for others were heard dramatically longer than typical for Petitioner at bench. Omission constituted flagrant Due Process denial and Procedural Harassment. Improper, it caused excessive disruption to my day. I had other matters to tend to and for survival being discriminatorily delayed in court.

During scheduled session, a bailiff of the Sherriff's Department vindictively baited to entrap with discriminatory action in open court. Petitioner entered line to approach bench. Bailiff initiated to remove me from the courtroom unreasonably and imprudently. Off the record, as session concluded, Petitioner urgently communicated (as he was being removed) asserting his right for hearing without inordinate prejudicial delay effected. Judge silently ignored, left bench for lunchbreak without acknowledging issue.

Petitioner returned 1440 during afternoon docket for addressal of issue. During interim, he had tended to personal necessary matters not able to arrive at exactly 0130 when, circumstantially, court procedurally defaulted previous. Also, it is customary for counsel to arrive enter line during course of session to be heard. Same bailiff persisted enforcing that Petitioner remain outside courtroom and presented minute order recording, "People request a warrant based upon Defendant's contempt/behavior in court." Petitioner requested callback. After Bailiff attempted further baiting with repeated, irrelevant, circular questioning and responses, he accommodated.

Judge called Petitioner to bench... then informed on record that he refused to hear him on date. Specific Deputy District Attorney was now absent, although others were then present. Matters were not continued. Judge imposed one minute for requested statement on the record and cut it short.

Petitioner's spoken words were not "in themselves contemptuous," nor "uttered in an insolent or defiant manner" (*Rose v Superior court in and for Los Angeles County* (1934) 140 Cal. App.

418). He acted within right, in context, addressing blatant denial of Due Process as Constitutional Fundamental Right. His act possessed justifiable showing of cause necessary toward aggressive defense addressing distressingly expedient issue; especially factoring extraordinary circumstances resulting from prolonged pattern of Abuse of Legal Process harassing petitioner in a harmful manner (as above). His statement failed to warn "before taking disciplinary action against (Petitioner)" during ex-parte proceeding subsequent with Prosecutor (*Gallagher v Municipal Court of City of Los Angeles* (1948) 31 Cal. 2d 784; *in re Buckley* (1973) 10 Cal. 3d 237).

Petitioner did not "persistent(ly) (interrupt)... court proceedings (as) an attorney... as to embarrass the administration of justice" (*In re Hallimann* (1932) 126 Cal. App. 121). Pro Se, he possessed 'the duty to protect (his) interests (as Defendant)' and "press legitimate argument and to protest an erroneous ruling..." which was, by omission, act obstructing justice by Due Process (*In re Hallimann*, Supra).

Here, summary contempt power must not "stifle freedom of thought and speech so necessary to a fair trial under the adversary system" *In re Hallimann*, Supra). The court must not unduly interfere with representation's "Obligation to vigorously represent interests of a Defendant;" apparent disrespect was "objectively clear" but "the subjective impression of the judge" (*Degeorge v Superior Court* (1974) 40 Cal. App. 3d 305).

Extraordinary Circumstance of Overburden in lieu of Abuses of Legal Process make it impracticable for Petitioner to file timely several motions at issue (such as Change of Venue, Disqualify Judge and Prosecutor) not several Petitions for each case. Therefore, it would be in the interest of justice for Court to order stay on all proceedings in all cases against Petitioner per requests and in joinder of causes. Doctrine of laches (in fairness) rules at issue.

Date: 02/5/2017

Respectfully submitted,

  
James E. Horton, In Propria Persona

## VERIFICATION

I, the undersigned, do hereby attest:

I, James E. Horton, am the Petitioner self-representing in the above entitled proceeding. All facts alleged in the above petition are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on 0215 2017 at Court of Appeal of the State of California, Third District.

Date: 0215 2017

Respectfully submitted,

  
James E. Horton, Pro se

## WORD COUNT CERTIFICATE

Petition herein contains 5,672 words meeting limit pursuant to Cal. Rules of Court § 8.204(c).

Date: 0215 2017

Respectfully submitted,

  
James E. Horton, Pro se

DECLARATION OF JAMES E. HORTON IN SUPPORT PURSUANT TO CA Rules Of Court §  
8.486(b)(2) IN LIEU OF NON-POSSESSION OF FILESTAMPED HARD COPIES TO APPENDIX

I, James E. Horton, as Defendant In Propria Persona, declare under penalty of perjury, on information and belief, under the laws of the State of California that the foregoing is true and correct:

Whereas, Petitioner, and under Extraordinary Circumstances effected, does not possess filestamped hard-copies of relevant documents to Appendix as Exhibits.


Whereas, forced to live indigent while self-representing, Petitioner's cart of possessions including file box containing filestamped hard-copies was stolen on 09132016 in Sacramento.

Whereas, Petitioner, on 11092016, visited clerk of courts at Respondent Court to reacquire filestamped copies.

Whereas, on same date, clerk informed: 1. physical case files are not available having been transferred, not present at the Court, to an "Attorney Unit" while no information was available as to identity of this "Attorney Unit" or reason for action. Consequently, Court again Maliciously denied Procedure.

Whereas, Petitioner avers hereby that he has faithfully attached representations conforming to ORIGINAL case record as originally filed and filestamped and intends to compel documents from lower court and Real Party in Interest with practice upon filing of petition herein. (Refer to Appendix \_\_\_\_\_). Petitioner, being indigent and without income, is unable to afford total cost of printing and postage given length of petition with necessary appendices. As solution, he has provided portion of supporting documents in digital form stored on CD-ROM media attached as Appendix F.

Date: 02152017

  
James E. Horton, In Propria Persona

DECLARATION OF JAMES E. HORTON IN SUPPORT PURSUANT TO CA Rules Of Court §  
8.486(3) IN LIEU OF NON-POSSESSION OF PROPER TRANSCRIPTS

I, James E. Horton, as Defendant In Propria Persona, declare under penalty of perjury, on information and belief, under the laws of the State of California that the foregoing is true and correct:

Whereas, on 06222016, Petitioner filed request for transcript of trial readiness conference on 06152016 with Court Reporter's Office at Respondent Court.

Whereas, on 06232016, Petitioner filed request for transcript of trial beginning 06222016.

Whereas, on trial date of 06242016, obviously responsive to requests filed aforesaid, court reporter, Lisa Schafer, approached Petitioner present in courtroom communicating transcripts would not ever be provided to him. She claimed: her "manager" informed her of policy accordingly, instructed her to inform petitioner of said policy based on grounds that a fee waiver was never ordered covering (when a fee waiver had been granted recorded in court file which Petitioner previously had received transcripts upon during pre-trial and when such delivery is at cost of the state in criminal proceedings by statute and relevant Judicial Council rules).

Whereas, on 06242016, petitioner filed application for fee waiver specifically for transcripts and Respondent filed order denying request on either 06252016 or 06272016 reasoning, "Judgement has not issued and no appeal is pending. Request may be re-submitted after entry of judgment." Judge dated order signed as, "June 25, 2016." Case Summary Report reflects "Order denying Fee Waiver" dated 06272016.

Whereas, on 06272016, Petitioner filed request for hearing about court fee waiver order; court set order to appeal order for 07272016 which was continued since Petitioner was denied procedure on said date.

Whereas on 07012016, Petitioner filed application for waiver specifying request for transcripts to attach to Petitions "despite for appeal... other proper motions for extraordinary relief..."

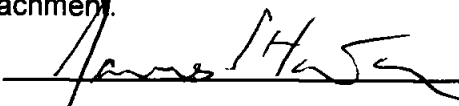
Whereas, court has procedurally defaulted on ignoring Petitioner's application filed 07012016.

Whereas, Petitioner filed Request to Waive Additional Court Fees on 07152016 specifying transcripts were needed for Petitions and for Faretta motion, not appeal.

Whereas, on 07192016, judge, delaying request filed 07152016, ordered another fee waiver hearing date for 08242016 being same date set for continued sentencing, warrant review, hearing upon Faretta motion and multitude of other matters for all cases simultaneously as Procedural Harassment and Abuse of Legal Process.

Thereby, despite Petitioner's full-faith and diligence to acquire proper transcripts, Respondent Court has denied delivery and they are unavailable for attachment.

Date: 0215 2017

  
James E. Horton, In Propria Persona

## TABLE OF EXHIBITS

Appendix	Location
A. Agreement to Appear (case 15-6705)	
B. Police Report (Actual complaint never filed in case: 15-6705)	
C. Petition for Writ of Mandate (case 15-6705) filed 04202016 (relevant pages)	
D. Motion to Dismiss Because of Denial of Right to Speedy Trial (case 15-6705)	
E. Common Law Motion to Dismiss and Fair Trial (case 15-6705)	
F. Appendix F CD-ROM	
1. Case Summary Reports (reflecting court's record of court's minutes)	
a. Case: 13-36 [filepath:/CASE SUMMARY REPORTS/13-3628 CASE SUMMARY REPORT.pdf]	
b. Case 13-23865 [filepath:/CASE SUMMARY REPORTS/13-23865 CASE SUMMARY REPORT.pdf]	
c. Case 14-1219 [filepath:/CASE SUMMARY REPORTS/14-1219 CASE SUMMARY REPORT.pdf]	
d. Case 14-4497 [filepath:/CASE SUMMARY REPORTS/14-4497CASE SUMMARY REPORT.pdf]	
e. Case 15-6705 [filepath:/CASE SUMMARY REPORTS/15-6705 CASE SUMMARY REPORT.pdf]	
2. Respondent's Reply Brief (as erroneously titled by Real Party in Interest) [filepath:/REPLY BRIEF.pdf]	
3. Petitioner's Answer to Respondent's Reply Brief [filepath:/ ANSWER TO REPLY BRIEF.pdf]	
4. ORDER DENYING STAY [filepath:/ORDER DENYING STAY.pdf]	
5. VACATE JUDGEMENT [filepath:/Motion to Vacate Judgement.doc]	
6. Faretta Motion [filepath:/faretta 15-6705.doc]	
7. Second Faretta Motion [filepath:/faretta 15-6705 (2).doc]	
8. Citations upon arrests on warrants [filepath:/Citations-Arrests on Warrants.pdf]	



# **Yolo County Sheriff's Office - Agreement to Appear (853.6 P.C.)**

Booking Number: 1501101

Date: 02/18/2015

Time: 7:54 pm

Inmate: HORTON, JAMES EDWARD

Description: Sex: M Race: W Hgt: 5-06 Wgt: 160 Hair: BRO Eyes: BLU

Address: Transient, Woodland, Ca

Telephone:

Drivers License: 29278556 (PA)

Birth Date: 08/11/1970

SSN: 274-84-5382

Arresting Agency: Woodland Police

Arresting Agency Case #: 15-1052

Arresting Officer: Woodland Police Department

Date of Arrest: 02/18/2015

Booking Date: 02/18/2015

Release Date: 02/18/2015

Date of Appearance: 05/14/2015

Time: 8:30 am

Department: 9

Place of Appearance: Yolo County Superior Court

Telephone: (530) 406-6705

Court Address: 213 Third Street, Woodland, CA 95695

## **WITHOUT ADMITTING GUILT:**

I promise to appear on the date and time indicated above. I understand that if I fail to appear as promised a warrant will be issued for my arrest (978.5(4) P.C.) and I may be charged with a misdemeanor pursuant to section 853.7 P.C.

DEFENDANT SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

RELEASING CORRECTIONAL OFFICER: \_\_\_\_\_

DATE: \_\_\_\_\_

You have been charged with the following:

Offense	Description	I = Infraction F = Felony M = Misdemeanor	Date of Violation( Arrest) or Warrant Issued	Warrant Number
647.6(A) PC	Annoy/Molest Child U	M	02/16/2015	
415(1) PC	Fight/Challenge Figh	M	02/18/2015	

Comments:

# WOODLAND POLICE DEPARTMENT - CA0570300

1000 Lincoln Avenue, Woodland, CA 95695 / (530) 661-7800

## CRIME & INCIDENT FORM

REV 05/2011

CASE NUMBER

15-1052

ASSOCIATED CASE NUMBER

OUTSIDE AGENCY CASE NUMBER

REPORT TYPE

☒ INITIAL ☐ SUPPLEMENT ☐ COURTESY

INCIDENT

DATE REPORTED 2-18-15 TIME 1400 DATE INCIDENT STARTED 2-18-15 TIME 1355 DATE INCIDENT ENDED 2-18-15 TIME 1430

BRIEF DESCRIPTION OF INCIDENT

A SUBJECT WAS PLACED UNDER CITIZEN'S ARREST FOR ANNOYING / CHILD AND CHALLENGING / FIGHT / PUBLIC

INCIDENT LOCATION 1

1400 E MAIN ST

INCIDENT LOCATION 2

INTERNAL INCIDENT STATUS

☐ 5150/5585 ☐ 849(b) ☒ ACTIVE ☐ ARREST ☐ DA ☐ INACTIVE ☐ OTHER ☐ OUTSIDE ASST ☐ PC/RAMEY ☐ UNF ☐ VICTIM REFUSAL ☐ VICTIM RETURNED

ADDITIONAL INFORMATION

☐ SERIALIZED PROPERTY ☐ EVIDENCE COLLECTED ☐ SEX CRIME ☐ CHP 180 ☐ HATE CRIME ☐ GANG RELATED ☐ DOMESTIC VIOLENCE

OFFENSES

CODE SECTION

647.6(a)(1)PC

CODE DESCRIPTION

ANNOY / CHILD

CODE SECTION

415(6)PC

CODE DESCRIPTION

CHALLENGE / FIGHT / PUBLIC

COUNTS

1

CLASSIFICATION

☐ INF ☒ MISD ☐ FEL ☐ N/A ☐ ATT ☒ COMP

COUNTS

1

CLASSIFICATION

☐ INF ☒ MISD ☐ FEL ☐ N/A ☐ ATT ☒ COMP

CODE SECTION

C

CODE DESCRIPTION

CODE SECTION

D

CODE DESCRIPTION

COUNTS

CLASSIFICATION

☐ INF ☐ MISD ☐ FEL ☐ N/A ☐ ATT ☐ COMP

COUNTS

CLASSIFICATION

☐ INF ☐ MISD ☐ FEL ☐ N/A ☐ ATT ☐ COMP

TYPE OF PREMISE

GAS STATION

SECURITY

☐ ALARM

METHOD OF ENTRY

POINT OF ENTRY

POINT OF EXIT

INSTRUMENT/TOOL/WEAPON USED

SCENE VISIBILITY

OTHER

☐ FORCE: ATTEMPT/THREAT/USE ☐ STRUGGLE

ADDITIONAL

OFFENSES

VICTIM

☒ B ☐ C ☐ D ☐ E ☐ F ☐ G ☐ H

LAST NAME (OR BUSINESS NAME)

RUDOLPH

FIRST NAME

LUCAS

MIDDLE NAME

JOHN

SUFFIX

STATUS

☐ JUV

HOME ADDRESS

1338 WESCOTT RD / COLUSA CA 95932

HOME/MOBILE PHONE

OCCUPATION

EMPLOYER

BUSINESS PHONE

BUSINESS ADDRESS

DRIVERS LICENSE NUMBER

STATE

SOCIAL SECURITY NUMBER

DATE OF BIRTH

8-11-08

AGE

6

SEX

☒ M ☐ F ☐ UNK

RACE

W

ETHNICITY

EYE COLOR

HAIR COLOR

HAIR LENGTH

HAIR STYLE

INJURIES

☐ INJURED

COMPLEXION

HEIGHT

WEIGHT

FACIAL HAIR

BUILD

ADDITIONAL

VICTIM

SUSPECT

☒ B ☒ C ☐ D ☐ E ☐ F ☐ G ☐ H

LAST NAME

HORTON

FIRST NAME

JAMES

MIDDLE NAME

EDWARD

SUFFIX

STATUS

☐ JUV

HOME ADDRESS

TRANSIENT

HOME/MOBILE PHONE

OCCUPATION

UNEMPLOYED

EMPLOYER

BUSINESS PHONE

BUSINESS ADDRESS

DRIVERS LICENSE NUMBER

STATE

SOCIAL SECURITY NUMBER

DATE OF BIRTH

8-11-70

AGE

44

SEX

☒ M ☐ F ☐ UNK

RACE

W

ETHNICITY

EYE COLOR

BW

HAIR COLOR

BW

HAIR LENGTH

HAIR STYLE

COMPLEXION

HEIGHT

5-6

WEIGHT

160

FACIAL HAIR

BUILD

GLASSES TYPE

SCARS/MARKS/TATTOOS

HAND DOMINANCE

☐ R ☐ L

SPEECH

TEETH

INJURIES

☐ INJURED

CLOTHING

USED

☐ DRUGS ☐ ALCOHOL ☐ WEAPON

ADDITIONAL

SUSPECT

WPD

REPORTING OFFICER

WRIGHT

CAD

2842

DATE

2-18-15

TIME

1507

APPROVING SUPERVISOR

S. GUTIERREZ

CAD

2083

DATE

2/19/15

ADDITIONAL FORMS

☒ OFFENSES & INVOLVED PARTIES ☐ PROPERTY ☐ EVIDENCE ☐ WIRELESS NARRATIVE ☐ WIRELESS DICTATED NARRATIVE

PAGE

1

OF

2

0005

## SUPPLEMENTAL NARRATIVE REPORT

Agency Name: <u>Woodland</u>	ORI #: <u>CA0570300</u>	Report Date/Time: <u>02/18/2015 15:45:40</u>	OCA #: <u>WDP15-001052</u>
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## NARRATIVE

WOODLAND PD CASE # WDP15-001052

## NARRATIVE (WRIGHT - 2842)

ON 2/18/15 AT ABOUT 1400 HOURS, I WAS ON PATROL IN FULL UNIFORM, DRIVING A FULLY MARKED PATROL CAR (# 774). OFFICERS WERE DISPATCHED TO A REPORT OF AN AGGRESSIVE PANHANDLER AT QUIK STOP AT 1400 E. MAIN ST IN WOODLAND, CA 95776 (YOLO COUNTY).

SERGEANT GUTHRIE AND OFFICER RAYLS ARRIVED ON SCENE BEFORE ME, AND SERGEANT GUTHRIE HAD A KNOWN TRANSIENT (JAMES EDWARD HORTON) DETAINED ACROSS THE STREET. HORTON WAS MONOTONE, BUT ARGUMENTATIVE WITH SERGEANT GUTHRIE.

I CONTACTED THE REPORTING PARTY, IDENTIFIED BY CDL AS PAUL COBB JR. COBB WAS WITH HIS GRANDSON, LUCAS RUDOLPH (6 YOA) IN THEIR DODGE VAN (L/N- 11391N1). RUDOLPH WAS WEARING A COWBOY HAT. COBB TOLD ME THE FOLLOWING IN SUMMARY:

## PAUL COBB'S STATEMENT

COBB TOOK HIS GRANDSON (RUDOLPH) TO THE RESTROOM AT QUIK STOP, WHICH WAS A UNISEX SINGLE STALL ROOM WITH A LOCK. RUDOLPH WALKED INTO THE RESTROOM AS COBB STOOD CLOSE BY. COBB HEARD A MALE YELLING IN THE RESTROOM, AND RAN TO INVESTIGATE. THE DOOR TO THE RESTROOM WAS OPEN, AND A MALE (LATER IDENTIFIED AS HORTON) WAS IN THE RESTROOM ANGRILY SCREAMING PROFANITIES AT RUDOLPH (COBB DOES NOT KNOW IF HORTON WAS IN THE RESTROOM WHEN RUDOLPH WALKED IN, OR HORTON WALKED PAST COBB AND WENT IN AFTER RUDOLPH).

RUDOLPH WAS CLEARLY SCARED, AND COBB TOLD HORTON TO LEAVE HIS GRANDSON ALONE. HORTON BEGAN YELLING PROFANITIES AT COBB, AND CHALLENGED HIM TO FIGHT. COBB WALKED RUDOLPH OUTSIDE AND THEY TRIED TO GET TO THEIR VAN. HORTON WALKED OUT AND CONTINUED TO YELL AT COBB. HORTON WAS STANDING IN THE WAY OF THEIR VAN, SO COBB CALLED DISPATCH.

AS COBB TALKED TO DISPATCH, HORTON CONTINUED TO YELL AT HIM, AND MOVED FORWARD A FEW TIMES, PROMPTING COBB TO RAISE HIS FIST IN A DEFENSIVE POSTURE. HORTON EVENTUALLY WALKED AWAY.

## END: PAUL COBB'S STATEMENT

COBB WISHED TO PLACE HORTON UNDER CITIZEN'S ARREST FOR ANNOYING HIS GRANDSON AND THREATENING COBB TO FIGHT IN PUBLIC.

I GAVE COBB THE IN-FIELD SHOW UP ADMONISHMENT, AND HE FOLLOWED ME AROUND THE BUILDING WHERE SERGEANT GUTHRIE AND OFFICER RAYLS WERE STANDING BY WITH HORTON. COBB POSITIVELY IDENTIFIED HORTON.

SERGEANT GUTHRIE ADVISED ME THAT HORTON HAD INVOKED HIS RIGHT TO SPEAK WITH A LAWYER (SEE SERGEANT GUTHRIE'S SUPPLEMENT).

OFFICER RAYLS SPOKE WITH THE QUIK STOP CLERK AND ATTEMPTED TO OBTAIN VIDEO SURVEILLANCE (SEE OFFICER RAYLS' SUPPLEMENT).

HORTON WAS MUMBLING THROUGHOUT THE ENTIRE CONTACT, AND STATED THAT HE DID NOT NEED ANY MENTAL HEALTH ASSISTANCE. WHILE AT YCJ, HORTON MUMBLED SOMETHING ABOUT A BOY IN A COWBOY HAT, AND A GUY THAT WAS YELLING AT HIM. HORTON WAS READING THIS NARRATIVE AS I WAS TYPING IT IN MY PATROL CAR, AND MADE A SPONTANEOUS STATEMENT THAT HE WAS ALREADY IN THE RESTROOM WHEN THE CHILD WALKED IN. AS HORTON WAS SAYING SOMETHING ABOUT THE PUBLIC DEFENDER, HE LOOKED TO HIS IMMEDIATE RIGHT AND YELLED, "JUST SHUT UP!", AS IF HE WERE TALKING TO SOMEONE NEXT TO HIM.

WRIGHT, RICHARD	2842	02/18/2015 15:46:22	Reporting Officer Signature
Reporting Officer	ID #	Date	
Assisting Officer	ID #	Date	
GUTHRIE, STEVE	2833	02/19/2015 15:42:14	
Assisting Officer Signature			
Reviewing Officer	ID #	Date	Reviewing Officer Signature

SUPPLEMENTAL NARRATIVE REPORT

7

Agency Name: Woodland	ORI #: CA0570300	Report Date/Time: 02/18/2015 15:45:40	OCA #: WDP15-001052
--------------------------	---------------------	--	------------------------

NARRATIVE

HORTON WAS BOOKED FOR 647.6(A)(1) PC AND 415(1) PC.

DISPOSITION

CLEARED BY ARREST

COMPLETED BY WRIGHT - 2842

CONFIDENTIAL

WRIGHT, RICHARD	2842	02/18/2015 15:46:22	
Reporting Officer	ID #	Date	Reporting Officer Signature
Assisting Officer	ID #	Date	Assisting Officer Signature
GUTHRIE, STEVE	2833	02/19/2015 15:42:14	
Reviewing Officer	ID #	Date	Reviewing Officer Signature

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO  
APPELLATE DEPARTMENT**

JAMES E. HORTON,	)	Superior Court No.
	)	15-6705
Petitioner,	)	
	)	
vs.	)	
	)	
THE SUPERIOR COURT OF THE STATE	)	
OF CALIFORNIA, COUNTY OF YOLO,	)	
	)	
	)	
Respondent;	)	
_____	)	
	)	
The People of the State of California,	)	
Real Party in Interest.	)	
_____	)	

**PETITION FOR WRIT OF MANDATE AND REQUEST FOR STAY OF  
PROCEEDINGS PRESENTLY SET FOR 04212016 AND EXHIBITS IN SUPPORT  
THEREOF WITH MEMORANDUM OF POINTS AND AUTHORITIES**

**After Denial of COMMON LAW MOTION TO DISMISS BECAUSE OF DENIAL OF  
RIGHT TO SPEEDY TRIAL, DUE PROCESS AND FAIR TRIAL and MOTION TO  
DISMISS BECAUSE OF DENIAL OF RIGHT TO SPEEDY TRIAL REGARDING  
CHARGE OF VIOLATION OF CA PC415(1)**

**By the Honorable Judge Steven L. Mock of the Superior Court County of Yolo County**

**James E. Horton, In Propria Persona  
204 4<sup>th</sup> Street Suite A  
Woodland, CA 95695  
[jaakovos@gmail.com](mailto:jaakovos@gmail.com)  
Petitioner Self-Representing**

TO PRESIDING JUDGE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO APPELLATE DEPARTMENT:

TO PRESIDING JUDGE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO, APPELLATE DEPARTMENT:

Petitioner, James E. Horton, petitions this Court for a writ of mandate and stay of proceedings directed to respondent Court, and by this verified petition represents that:

1. Petitioner, James E. Horton, is Defendant in case number 15-6705, wherein he was arraigned on 12012016 alleging a violation of PC § 415(1) and which is now pending in respondent Court, The Superior Court of the State of California, Yolo County. The People of the State of California, the Plaintiff in that action, are named in this petition as Real Party in Interest.

2. Respondent, the Superior Court of Yolo County, is now and at all times mentioned in this petition has been exercising judicial functions in connection with the action described in Paragraph 1.

3. All the proceedings about which this petition is concerned have occurred within the territorial jurisdictional of respondent Court and of the Court of Appeal of the State of California, Third Appellate District.

4. No other petition for writ of mandate has been made by or on behalf of this petitioner relating to this matter.

5. Petitioner seeks extraordinary relief from this Court in the first instance because in addition to the Allegations set out above, the following circumstances make it proper and necessary that a writ issue from this Court: 1. the matters involved are of public and general interest to the People of the State of California having bearing upon very weighty issues with respect to fundamental Constitutional Rights and require speedy resolution; 2. they present questions of law not previously decided in the state; and, 3. there is an urgent need for uniformity of decision within the state.

6. In 012016, COMMON LAW MOTION TO DISMISS BECAUSE OF DENIAL OF RIGHT TO SPEEDY TRIAL, DUE PROCESS AND FAIR TRIAL, which he filed with Respondent Court on 02172016, and Petitioner's MOTION TO DISMISS BECAUSE OF RIGHT TO SPEEDY TRIAL, which he filed with the Respondent Court on 02192016. Petitioner's motions were denied and a writ of Habeas Corpus was granted on the grounds Defendant's fundamental right to a Speedy Trial, Due Process and Fair Trial have clearly been prejudiced by procedural inefficiencies so cumulative, they betray extreme Vindictive, Discriminatory, Retaliatory and Malicious Prosecution - Prosecutorial Harassment while Defendant is in a conflict with Agents of the State. On 03232016, The Court [redacted] prejudicially denied Petitioner's both motions aforesaid in open Court.

7. Allegation When Petition Challenges Nonappealable Order

The order at issue in this proceeding is a nonappealable order, issued on 03232016. This Petition is filed within a reasonable time because the reporter's transcript of the hearing in which the challenged order was made was not available until 04062016 and petitioner has referred extensively to the reporter's transcript in this petition while the legal issues are complex. Furthermore, the real party in interest has not been prejudiced by delay.

8. Petitioner has no right to appeal from respondent's decision of 03232016 and does not have a plain, speedy, or adequate remedy at law other than the extraordinary relief sought in this petition.

9. As supported in attached Memorandum, Petitioner will be irreparably injured in that he will be effectively denied fundamental VIth Amendment right to Fair Trial resulting from the prejudicial denial of his right to a Speedy Trial and Due Process if respondent Court is not compelled to perform its legal duty and issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental rights to Speedy Trial and Due Process thereby prohibiting it from taking any further action in the above-described matter.

This Court (Appellate Department) should consider this case because of the grave nature of the issues presented, because of its significant legal impact, and in order to review questions at law that are of weighty significance to the bench and bar so that general guidelines can be laid down for future cases involving similar issues -- such as self-representation, prosecutorial harassment and malicious, Abuse of Legal Process.

**WHEREFORE, Petitioner prays that:** 1. This Court immediately stay all proceedings in the case at issue, case number 15-6705, until further order of this Appellate Department of this Court; 2. This Court issue a peremptory writ of mandate in the first instance commanding respondent Court to issue its order of mandate to dismiss charges because of denial of Petitioner's fundamental rights to Speedy Trial and Due Process, and, 3. This Court grant Petitioner such other and further relief as may be appropriate and just.

Date: 04262016

Respectfully submitted,

James E. Horton, In Persona Propria

James E. Horton

## MEMORANDUM OF POINTS AND AUTHORITIES

## JUDGE PREJUDICIALLY ERRED BY MALICIOUS IGNORANCE OF PETITIONER'S FULLY MERITORIOUS ARGUMENT

On 03232016, Judge Steven L. Mock based his denial of Petitioner's motion at issue upon the reasoning oversimply that Petitioner "... failed to present evidence that would warrant dismissal of the charges based on (his) assertion that the prosecution or law enforcement has retaliated... or that this is malicious prosecution" (*Transcript of Oral Argument* at 11: lines 1-5, *People v. James Horton*, (2015)(15-6705)(March 23, 2016) as Exhibit C).

During same hearing, Petitioner raised issue addressing actual procedural prejudice as "unfair" denials of Due Process which occurred on said date, which (in the circumstances and factors) constitute further Abuse of Legal Process. Thus far during pretrial pendency, case has been continually before a different Judge – one Judge Daniel P. Maguire. Opening, Judge Mock stated, "I'm new to this file..." (*Transcript of Oral Aral Argument* at 1: lines 19-25, *Supra*). Therefore, Petitioner then asserted: Presiding Judge lacked requisite experiential background of pendency immediately at issue (including the effect on his rights by concurrent pendencies with which former Judge has been necessarily aware and familiar); and, therefore, he was unprepared at hearing to weigh all relevant factors (*Transcript of Oral Argument* at 1: lines 19-25, *Supra*). In support, Petitioner also referenced anomalous procedural complications mentioned as Malicious Abuse of Legal Process in his motion at issue attached as Exhibit B.

Furthermore, Petitioner orally supported, presenting prima facie facts accounting for a total of approximately 11 months of bad-faith delay accrued beyond statutory requirements (defined pursuant to PC § 1382) by prosecution since a wrongful arrest of Petitioner on 02182015 (*Transcript of Oral Argument* at 8-9, *Supra*), that his fundamental rights at issue have been infringed as follows:

1. His fundamental right to Fair Trial has been extremely prejudiced by compounding of cases (as anomalous, prejudicial procedure) during concurrent pendencies constituting Malicious Abuse of Legal Process including Prosecutorial Harassment (*Transcript of Oral Argument* at 7: lines 18 – 8:lines 1-2, *Supra*; *Transcript of Oral Argument* at 8: lines 2 – 10:14, *Supra*),
2. Malicious denial of disclosure, as referred to in memorandum attached within Exhibit A, , and as a denial of a fundamental right of Petitioner (evidenced by an untimely, tactical conceding to disclosure on said date) caused a continuance of almost two months constituting "procrastination of public officials" violating PC § 1382 (*Transcript of Oral Argument* at 6: lines 2-18, *Supra*; *Transcript of Oral Argument* at 8: lines 2-10 – 10:14, *Supra*),
3. Overzealous prosecution is prejudicing the Petitioner with respect to the interests of the time and resources of the court (*Transcript of Oral Argument* at 10: lines 5-14, *Supra*).



In lieu of aforesaid, the Court prejudicially erred denying said motions abusing discretion in that:

1. Petitioner had no expectation of needing to present new evidence; proceeding was a hearing on oral argument upon the motions at issue (not an evidentiary hearing scheduled for evidence procedure).
2. Presiding Judge grossly abused discretion blatantly dismissing with total ignorance Petitioner's prima facie facts orally presented with argument in support.

"Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v Superior Court* (1991) 230 Cal. App.3d). Therefore, it would be in the interest of justice for the Court to dismiss the charge.

#### DEFENDANT IS PREJUDICED BY PROLONGED RESTRAINT OF LIBERTY TO AN AREA

In conclusion, proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, defendant did not have outstanding warrants, nor a criminal record. Charge is minor based on minimal evidence. As a matter of fact, the first charge -- stemming from an anonymous, citizen informant's dispatch call -- was dropped having no merit before arraignment. Defendant is not even resident of area but was traveling through at time of incident at question. He intends to move on while his liberty is restrained to the area, by inordinate delay, as an indigent without income. Furthermore, Defendant is forced by necessity to self-represent (as described in previous Faretta Motion) in such circumstances -- his opportunities for employment are disrupted, his associations (such as Church affiliations) are curtailed. The drawnout procedural harassments, as above, are prejudicing the defendant with excessive anxiety inducement. Also, it would belabor the Court with unnecessary expense of time and resources -- and over minor charge with little merit. Therefore, zealous prosecution would serve to only confirm Defendant's assertions concerning a pretextual arrest with motives toward malicious, retaliatory, prosecutorial misconduct.

According to Serna, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (*Serna v Superior Court* (1985) 40 C3d 239). Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Date: 6-24-2017 JCH \_\_\_\_\_ Respectfully submitted,

James E. Horton, In Persona Propria \_\_\_\_\_

**TABLE OF EXHIBITS****EXHIBIT**

<b>A</b>	NOTICE OF MOTION TO DISMISS BECAUSE OF DENIAL OF SPEEDY TRIAL
<b>B</b>	COMMON LAW MOTION TO DISMISS BECAUSE OF RIGHT TO SPEEDY TRIAL, DUE PROCESS AND FAIR TRIAL
<b>C</b>	REPORTER'S TRANSCRIPT OF MOTION PROCEEDINGS

James E. Horton  
204 4<sup>th</sup> Street, Suite A  
Woodland, CA 95695  
Email address: jaakovos@gmail.com  
In Pro Per

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF YOLO

PEOPLE OF THE STATE	) Dept. 10
	) Case No.: 15-6705
	) NOTICE OF MOTION TO
CALIFORNIA,	) DISMISS BECAUSE OF DENIAL
	) OF RIGHT TO SPEEDY TRIAL
Plaintiff,	)
	)
vs.	)
	)
James E. Horton,	)
	)
Defendant	)
	)
	)

TO THE ABOVE ENTITLED COURT, AND TO THE DISTRICT ATTORNEY OF YOLO COUNTY,  
STATE OF CALIFORNIA:

PLEASE TAKE NOTICE that on \_\_\_\_\_, in Department \_\_\_\_ at \_\_\_\_\_, or as soon thereafter as the matter may be heard, the defendant, James E. Horton, will move the Court to dismiss the accusatory pleading filed herein on the grounds that the prosecution has unreasonably delayed, violating the defendant's right to a speedy trial guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, section 15 of the California Constitution. The unreasonable delay has thus far been two months since arraignment on 12072016. This motion will be based on the attached memorandum of points and authorities, attached declaration, evidence taken at the hearing on this motion, argument at that hearing.

Date: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
James E. Horton, In Persona Propria

## MEMORANDUM

### SUMMARY OF ARGUMENT

Procrastination of public officials has caused actual prejudice to Defendant's fundamental rights to a Fair Trial and Speedy Trial. Through procedural, incompetent inefficiencies betraying Prosecutorial Harassment, prosecution has caused delay in bad-faith of almost two months for bringing case to trial presumptively prejudicing Defendant.

### RULE OF LAW

Postaccusation delay is covered by article I, section 15 of the California Constitution: "[I]n criminal prosecutions, in any event whatever, the party accused shall have the right to a speedy and public trial..." (See also Penal Code section 686.) The California provision for a speedy trial "reflects the letter and spirit of the Sixth Amendment to the United States Constitution..." (People v Wilson (1963) 60 C2d 139, 144 n2, 32 CR 44.)

The right to a speedy trial is a "fundamental right granted to the accused and... the policy of the law since the time of the promulgation of the Magna Carta and the Habeas Corpus Act." (Harris v Municipal Court (1930) 209 C 55, 60, 285 P 699.) In an effort to implement this constitutional right, the California legislature has enacted a number of specific provisions providing certain time limits. However, the constitutional guarantees are self-executing, and specific legislation is not necessary to bring into effect the rights guaranteed thereunder. (Harris v Municipal Court (1930) 209 C 55, 60, 285 P 699.) Consequently, it remains for the courts to determine whether a defendant's constitutional rights have been impinged, even though no specific statute may have been violated. (Jones v Superior Court (1970) 3 C3d 734, 91 CR 578; Barker v Municipal Court (1966) 64 C2d 806, 51 CR 921; Rost v Municipal Court (1960) 184 CA2d 507, 7 CR 869.)

Pursuant to California Penal Code § 1382(a)-(B)(3), "The court, unless good cause to the contrary is shown, shall order the action to dismissed in the following cases: ... Regardless of when the complaint is filed, when a defendant in a misdemeanor... case is not brought to trial within 30 days after he or she is arraigned, whichever occurs later..."

The prosecution has a duty to employ all reasonable means to bring an accused promptly to trial. (Rice v Superior Court (1975) 49 CA3d 200; Plezbert v Superior Court (1971) 22 CA3d 169; Jones v Superior (1970) 3 C3d 734). In both Jones and Rice it was held that there is "no requirement that an accused must seek out the police and invite arrest" (Jones, supra). Therefore, burden to bring to trial timely is upon prosecution.

### ANALYSIS

#### DEFENDANT PREJUDICED BY PROCRASTINATION OF PUBLIC OFFICIALS

Defendant filed a request for discovery on 12/16/2015 which specified in items requests for: 1. Audio visual recordings of dispatch call and arrest (crucial to defendant's defense as exculpatory evidence about a "false report"), and 2. Any investigatory notes of statements of the informant.

On 01/15/2016, he filed a Motion to Compel said discovery. He had visited the District Attorney's office multiple times in full-faith effort to receive disclosure; they failed to disclose.

On 02/10/2015, compulsion of discovery, required by law to be disclosed to defendant, was prejudicially denied. Therefore, defendant was deprived ability to prepare for trial as only very basic police reports had been disclosed – more was in possession of the prosecution. Furthermore, during open

hearing on this date, Prosecutor Vanderhoek, in effect, flagrantly admitted blatant procrastination actually and (by tone) implicated defendant's timely and proper requests stating they were giving him too much work as a reason to dismiss them. Thereby, he grossly prejudiced defendant's lawful right to pretrial motion practice as gullful negligence.

At the jury trial date on 02152016, defendant began to address, in discussion, evidence procedure. Suddenly, prosecution produced two items to defendant in his possession: 1. A letter summarizing statements of informant, and 2. The police's audio visual recording of the dispatch call and arrest.

Defendant was not prepared for trial in lieu of the untimely disclosure. The thirty day rule was applied and the case was continued until 04112016.

Procrastination of public officials has caused almost two months of bad-faith delay beyond the 30 days after arraignment pursuant to PC section 1382.

Amongst all the events in the compounding of prosecutorial actions, this was one more incident along a train of malicious procedural harassments. Defendant is being harassed being overburdened by an onslaught of procedural inefficiencies, time-waste delays, prejudicial denials and abuses of legal process arising to actually war on the life, limb and liberty of the defendant (with pretextual motive toward Prosecutorial Harassment).

In *Jackson v. Superior Court*, defendant's trial was set post multiple continuances; parties had agreed to a last extension beyond statutory time period for bringing to trial. On that date, failure of Sheriff's to punctually transport him from confinement to court caused defendant's absence in court when the case was called on docket. He was currently, that moment, held in a holding area of the court. Despite objection of defense counsel, trial was once more continued finding, "The court found good cause to delay trial because 'Sheriff fails to deliver defendant to court.'" When defense counsel's motion to dismiss pursuant to § 1382 was denied 2 days later, he filed a petition for Writ of Mandate to Dismiss with the Court of Appeal, Second District, Division 3. The Court of Appeal granted defendant's petition and dismissed charges holding: "Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v. Superior Court* (1991) 230 Cal.App. 3d 1391). Holding relied, in part, on *Sykes* which held that "a speedy trial requires prompt action upon the part of all who are officially concerned, at the least, to the extent that adjudication of a defendant's rights shall not be stifled by the procrastination of officials" (*Sykes v Superior Court* (1973) 9 C3d 83).

The delay in bad faith of almost two months in the instant case is as long as delays found unreasonable in prior cases. For example, In *Kehler v Municipal Court*, a delay of two months caused by a Municipal Court was cause for reversal with an order of dismissal by a Court of Appeals.

In this case, a complaint was filed on 08031951 in Municipal Court against petitioner, Kehler, for seven counts of misdemeanors in the operation of a vehicle. On 08091951, he was arraigned pleading not guilty. Subsequently, Kehler ws granted continuances twice until 03201952. On this date, although defense counsel (with Kehler absent) requested a trial, the court refused on grounds that the defendant was not present. Counsel then moved for dismissal. On 03271952, his motion was denied; the court set a trial date for 05161952. Although counsel objected to such a late date, the court reasoned that date was the earliest possible calendar date for trial. "On April 8, 1952, Kehler filed his petition for writ of mandate in the Superior Court of Stanislaus County praying for an order of that court directing... to dismiss" the criminal complaint contending that "... because of the failure of the court to proceed on March 20 with the resetting of his trial for May 16, he was thereby deprived of a 'speedy trial' as that phrase is used in Section 13, Article I of the Constitution of this state." Superior Court denied Kehler's petition on grounds that Defendant's absence on 03201952 was not explained by counsel, the Court has lawful right to refuse to proceed without the presence of defendant, and, therefore, PC § 1382 "is not mandatory in these circumstances." Petitioner then petitioned for writ of mandate to the District Court of Appeal, Third District. The Court of Appeals reasoned that lower court's denial of Kehler's petition misinterpreted §

1382 which defines: "defendant in a misdemeanor case in inferior court" is to be brought trial within 30 days after he is arrested "... unless by his own neglect or failure to appear in court when his presence lawfully required..." Furthermore, Defendant knowingly absented himself as rightful pursuant to § 1043 and according to portions, the presence of a defendant is only absolutely mandatory in felony cases. Petitioner claimed denial of Right to Speedy Trial because of bad-faith delay between the dates of 03201952 and 05161952 – a delay accruing two months. Judgement was reversed; lower court was directed to order a dismissal of the criminal complaint.

Therefore, it would be in the interest of justice for the Court to dismiss the charge on grounds that Denial of Right to Speedy Trial is presumed to prejudice Defendant by inordinate delay of prosecution.

#### DEFENDANT'S RIGHT TO FAIR TRIAL PREJUDICED BY PROTRACTED RESTRAINT OF HIS LIBERTY TO AN AREA

Proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, Defendant did not have outstanding warrants, nor a criminal record. Indigent Defendant is not resident to the area. He intends to move on and tend to important life matters, yet his liberty to move is restrained by inordinate bad faith delay – and without income – in proceedings pending for total of over two years in this Court.

Procrastination by public officials in this matter is overbearing upon the Defendant a type of Prosecutorial Harassment that is Bordering on Arrest by unjustly depriving Defendant of liberty and, also, life in that his opportunities for employment are disrupted; associations (such as Church affiliations) are severed and impaired unto ruination (with isolation – deep-seated ostracization) by protracted, punitive, procedural siege in a foreign region. Concurrently, impoverished without domicile, Defendant must expend time-consuming effort toward life-sustaining activities while balancing deliberative, exhaustive labor of Criminal Defense (once again – without income). Having, by necessity, to self-represent in such circumstances is depleting his resources; imposing impediments to conducive working conditions thus retarding his ability to prepare for trial as a Fair Trial issue. Thereby, Defendant is furthermore prejudiced by the drawnout procedural harassment, as above, by inducement of anxiety and infliction of distress of a nature which a reasonable person would expect to be produced circumstantially as a human norm.

Furthermore, Defendant is forced by necessity to self-represent due to severely substantial conflict with counsel being in an unfair conflict with agents of the state. The pivotal case on the federal question concerning definition of standards for determining competence to self-represent, *Indiana v. Edwards*, spawned contributory research and analysis at issue for application in the states. In *The Journal of the American Academy of Psychiatry and the Law*, "Psychiatrists Morris and Frierson published a clinical study on choice to exercise Right to Self-Represent as a phenomena with analysis toward "professional guidelines related to forensic psychiatric practice" and "limitations of the decision..." The Defendant found article annotated in either *California Jurisprudence* or *American Jurisprudence* or some similar secondary authority for research under the topic of Competence to Self-represent confronted with in Case numbered 13-0003626 and for his *Faretta* motion.

Amongst positive reasons for such choice, vindicated by these researchers, include, "... little trust in the fairness of the legal system" when it is reasonable to believe that Fiduciary Interests of "public defenders" are compromised since "they are employees of the state" (Douglas m. Morris, MD, and Richard L. Frierson, MD, *Pro Se Competence in the Aftermath of Indiana v. Edwards*, 36 J Am Acad

Psychiatry 551-557 (2008)). Obviously, such determinants would constitute an unfair conflict between a Defendant and Agents of the State necessitating self-representation for any adequate defense (especially if defendant is indigent). Defendant, and rationally by his experience, claims: evidence shows such a condition exists in this case pending (as well as others pending simultaneously) giving rise to a severely substantial conflict because of gross ineffective counsel by public defenders.

Meanwhile, during the aforementioned administrative restraint affected throughout of Case numbered 13—003628, a total accumulation of four criminal matters have overbearingly initiated by the Yolo County District Attorney's Office. He now needs to self-represent (and in these Extraordinary Circumstances) in all four cases simultaneously. According to *Serna*, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (*Serna v Superior Court* (1985) 40 C3d 239). Furthermore, this Court reasoned, quoting from *U.S. v Marion*:

"Inordinate delay between arrest, indictment and trial may impair a defendant's ability to present an effective defense. But the major evils protected against by the speedy trial guarantee exists quite apart from actual or possible prejudice to an accused's defense. To legally arrest and detain, the Government must assert probable cause to believe the arrestee has committed a crime. Arrest is a public act that may seriously interfere with a Defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to (reputation harm), and create anxiety in him, his family and friends..." (*U.S. v Marion* (1971) 404 US 307 as quoted in *Serna v Superior Court* (1985) 40 C3d 239).

PLEASE NOTE, Especially when Defendant lacked criminal record prior to series frivolous incriminations, Defendant asserts: Due respect for his Due Process Right for Innocence until Proof of Guilt demands just consideration of rational claims as presented during prior case above mentioned as Case numbered 13-0003628 – namely that facts surrounding cases evidence that charges result out of (and with a motive for) Retaliatory Malicious Overzealous Prosecution and are based on false arrests and/or frivolous, selective grounds. Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Whereas scheduling for Defendant's jury trial, with excessively prejudicial, procedural inefficiency, has thus far been delayed since 12072016 hereunto; effectively, Defendant's right to a speedy trial under both the Constitutions of the United States of America and of California respectively since Defendant was prejudiced by the lengthy, cumulative delays.

Wherefore, Defendant prays to the Lord Jesus Christ and moves this Court, Sovereignly Ordained to be in position at this time, for once, to open its eyes to full context and consider the merits of this motion, and respectfully motions this Court to dismiss the accusatory pleading.

Date: \_\_\_\_\_

\_\_\_\_\_  
James E. Horton, In Propria Persona

James E. Horton  
204 4<sup>th</sup> Street, Suite A  
Woodland, CA 95695  
Email address: jaakovos@gmail.com  
In Pro Per

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF YOLO

PEOPLE OF THE STATE	) Dept. 10
	) Case No.: 15006705
CALIFORNIA,	) COMMON LAW MOTION TO DISMISS
	) BECAUSE OF DENIAL OF RIGHT TO
Plaintiff,	) SPEEDY TRIAL, DUE PROCESS AND
	) FAIR TRIAL
	)
vs.	)
	)
James E. Horton,	)
	)
Defendant	)
	)
	)

TO THE ABOVE ENTITLED COURT, AND TO THE DISTRICT ATTORNEY OF YOLO COUNTY,  
STATE OF CALIFORNIA:

PLEASE TAKE NOTICE that on \_\_\_\_\_, in Department \_\_\_\_ at \_\_\_\_\_, or as soon thereafter as the matter may be heard, the defendant, James E. Horton, will move the Court to dismiss the accusatory pleading filed herein on the grounds that the prosecution has unreasonably delayed, violating the defendant's rights to a Speedy Trial and Due process for a Fair Trial guaranteed by the Fifth Sixth and Fourteenth Amendments to the United States Constitution and Article I, section 15 of the California Constitution. The delay in bad-faith was more than nine and one half months from arrest on 02182015. This motion will be based on the attached memorandum of points and authorities, attached declaration, evidence taken at the hearing on this motion, argument at that hearing.

Date: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
James E. Horton, In Persona Propria



## MEMORANDUM

### SUMMARY OF ARGUMENT

Actual Prejudice to Defendant's Fundamental Rights to Right to a Speedy Trial and Fair Trial has been caused by procedural incompetence and procrastination by public officials (which betray Prosecutorial Harassment) causing over nine and one half month of bad-faith delay Pre-Arrest subsequent to Arrest.

### RULE OF LAW

Postaccusation delay is covered by article I, section 15 of the California Constitution: "[I]n criminal prosecutions, in any event whatever, the party accused shall have the right to a speedy and public trial..." (See also Penal Code section 686.) The California provision for a speedy trial "reflects the letter and spirit of" the Sixth Amendment to the United States Constitution..." (People v Wilson (1963) 60 C2d 139, 144 n2, 32 CR 44.)

The right to a speedy trial is a "fundamental right granted to the accused and... the policy of the law since the time of the promulgation of the Magna Carta and the Habeas Corpus Act." (Harris v Municipal Court (1930) 209 C 55, 60, 285 P 699.) In an effort to implement this constitutional right, the California legislature has enacted a number of specific provisions providing certain time limits. However, the constitutional guarantees are self-executing, and specific legislation is not necessary to bring into effect the rights guaranteed thereunder. (Harris v Municipal Court (1930) 209 C 55, 60, 285 P 699.) Consequently, it remains for the courts to determine whether a defendant's constitutional rights have been impinged, even though no specific statute may have been violated. (Jones v Superior Court (1970) 3 C3d 734, 91 CR 578; Barker v Municipal Court (1966) 64 C2d 806, 51 CR 921; Rost v Municipal Court (1960) 184 CA2d 507, 7 CR 869.)

The prosecution has a duty to employ all reasonable means to bring an accused promptly to trial. (Rice v Superior Court (1975) 49 CA3d 200; Plezbert v Superior Court (1971) 22 CA3d 169; Jones v Superior (1970) 3 C3d 734).

### ANALYSIS

#### DEFENDANT PREJUDICED BY PROCRASTINATION OF PUBLIC OFFICIALS

Defendant was arrested on 02182015 upon a false report by an informant alleging violation of PC § 415; he was approximately one block away from location of alleged incident at time of arrest – he had recently left within minutes prior. Upon arrest, a date of appearance was set for 05182016. Defendant arrived on that date to appear and was notified that the docket was empty. (As counsel for other cases, a Public Defender advised this meant charge was definitely "thrown out.")

Later he was informed of a rejection letter dated 05062015 that "the agreement to appear, issued to you... February 18, 2015 is not being pursued by the District Attorney's Office." The case was rejected. (The District Attorney's office addressed letter in its address block to: "Transient, Woodland, CA 95695. Defendant did not receive it until promptly after the inexpectant second initiation of the charge upon same incident as described below.)

On 12042015, without notice (as an unforeseen Act of the Court), charges in this case were brought during a Pretrial Conference for three other cases pending. Conspicuously, this act coincided with

the setting of jury trials for prior pending cases on 120042015. During prior pendencies, Defendant was continually informed by Court and public defender that cases were "attached to" and "trailing" another pending case (Case #: 13-0003628) as a procedural anomaly. Suddenly, during pretrial conference on date 08032015 for 13-0003628, suddenly, a jury trial was first set for 10142015 corresponding with the setting of jury trial for other cases as another procedural anomaly effecting Fair Trial. (Please refer to Motions to Dismiss Because of Denial of Speedy Trial Rights in prior cases numbered 14-4497 and 14-1219.) Defendant was arraigned on 12072015.

Now, due to substantial conflict, Defendant is self-representing in a total of three pending cases simultaneously during pendencies. Therefore, The timing of said act becries Malicious Abuse of Legal Process. Furthermore, at pretrial conferences and other hearings for Defendant's other pending cases, matters were heard about first case with hearing dates running concurrently and to be conducted simultaneously. They were all abrupt. As the record will show, minimal time was allowed for process on matters even in former case; discussions for matters in other cases, during there pendency, were effectively estopped hence precluded. Defendant is unduly harassed by these compounded procedural anomalies.

In present case, prosecution delayed setting an arraignment for over nine and one half months since his arrest. Therefore, absent any showing of cause at all, public officials caused approximately nine and one half months of bad faith delay for bringing to trial. This constitutes actual prejudice to Defendant's fundamental right to Speedy Trial. Delay, without showing of good cause, was not a delay between arraignment and trial date, but between the arrest and the second arraignment date, when first arraignment was canceled as case was rejected by the District Attorney. Delay, being subsequent to Arrest but prior to Arraignment constitutes Abuse of Legal Process when all factors arising to Actual Prejudice are weighed. According to *Serna*, "Prearrest delay may give rise to due process claim but only delay following formal accusation or delay subsequent to arrest are considered in evaluating claim under Sixth Amendment... speedy trial clause..." (*Serna v. Superior Court* (1985) 40 cal.3d 239). This court further held, speedy trial right "attaches with the filing of the accusatory pleadings and arrest, whichever is first" (*Serna*, Supra). Here, Defendant has already been arrested prior to the filing of a Complaint. The right attached with his arrest.

Furthermore, the delay in bad faith of nine and one half months in the instant case is longer than delays found unreasonable in prior cases. For example, In *Kehler v Municipal Court*, a delay of two months caused by a Municipal Court was cause for reversal with an order of dismissal by a Court of Appeals.

In this case, a complaint was filed on 08031951 in Municipal Court against petitioner, Kehler, for seven counts of misdemeanors in the operation of a vehicle. On 08091951, he was arraigned pleading not guilty. Subsequently, Keheler ws granted continuances twice until 03201952. On this date, although defense counsel (with Kehler absent) requested a trial, the court refused on grounds that the defendant was not present. Counsel then moved for dismissal. On 03271952, his motion was denied; the court set a trial date for 05161952. Although counsel objected to such a late date, the court reasoned that date was the earliest possible calendar date for trial. "On April 8, 1952, Kehler filed his petition for writ of mandate in the Superior Court of Stanislaus County praying for an order of that court directing... to dismiss" the criminal complaint contending that "... because of the failure of the court to proceed on March 20 with the resetting of his trial for May 16, he was thereby deprived of a 'speedy trial' as that phrase is used in Section 13, Article I of the Constitution of this state." Superior Court denied Kehler's petition on grounds that Defendant's absence on 03201952 was not explained by counsel, the Court has lawful right to refuse to proceed without the presence of defendant, and, therefore, PC § 1382 "is not mandatory in these

circumstances.” Petitioner then petitioned for writ of mandate to the District Court of Appeal, Third District. The Court of Appeals reasoned that lower court’s denial of Kehler’s petition misinterpreted § 1382 which defines: “defendant in a misdemeanor case in inferior court” is to be brought trial within 30 days after he is arrested “... unless by his own neglect or failure to appear in court when his presence lawfully required...” Furthermore, Defendant knowingly absented himself as rightful pursuant to § 1043 and according to portions, the presence of a defendant is only absolutely mandatory in felony cases. Petitioner claimed denial of Right to Speedy Trial because of bad-faith delay between the dates of 03201952 and 05161952 – a delay accruing two months. Judgement was reversed; lower court was directed to order a dismissal of the criminal complaint.

Therefore, it would be in the interest of justice for the Court to dismiss the charge on grounds that Denial of Right to Speedy Trial is presumed to prejudice Defendant by procrastination of public officials.

#### DEFENDANT’S RIGHT TO FAIR TRIAL PREJUDICED BY PROTRACTED RESTRAINT OF HIS LIBERTY TO AN AREA

Proceeding on this action would not serve justice, but only prejudice the Defendant in that the delays are causing undue disruption to his life without justifiable cause. At time of arrest, Defendant did not have outstanding warrants, nor a criminal record. Indigent Defendant is not resident to the area. He intends to move on and tend to important life matters, yet his liberty to move is restrained by inordinate bad faith delay – and without income – in proceedings pending for total of over two years in this Court.

Procrastination by public officials in this matter is overbearing upon the Defendant a type of Prosecutorial Harassment that is Bordering on Arrest by unjustly depriving Defendant of liberty and, also, life in that his opportunities for employment are disrupted; associations (such as Church affiliations) are severed and impaired unto ruination (with isolation – deepseated ostracization) by protracted, punitive, procedural siege in a foreign region. Concurrently, impoverished without domicile, Defendant must expend time-consuming effort toward life-sustaining activities while balancing deliberative, exhaustive labor of Criminal Defense (once again – without income). Having, by necessity, to self-represent in such circumstances is depleting his resources; imposing impediments to conducive working conditions thus retarding his ability to prepare for trial as a Fair Trial issue. Thereby, Defendant is furthermore prejudiced by the drawnout procedural harassment, as above, by inducement of anxiety and infliction of distress of a nature which a reasonable person would expect to be produced circumstantially as a human norm.

Furthermore, Defendant is forced by necessity to self-represent due to severely substantial conflict with counsel being in an unfair conflict with agents of the state. The pivotal case on the federal question concerning definition of standards for determining competence to self-represent, *Indiana v. Edwards*, spawned contributory research and analysis at issue for application in the states which considered such an issue. In *The Journal of the American Academy of Psychiatry and the Law*,” Psychiatrists Morris and Frierson published a clinical study on choice to exercise Right to Self-Represent as a phenomena with analysis toward “professional guidelines related to forensic psychiatric practice” and “limitations of the decision...” to apply under *Edwards*. The Defendant found article annotated in some secondary authority for research under the topic of Competence to Self-represent confronted with in Case numbered 13-0003626 and for his *Faretta* motion.

Amongst positive reasons for such choice, vindicated by these researchers, include, “... little trust in the fairness of the legal system” when it is reasonable (and significantly common) to believe that

Fiduciary Interests of "public defenders" are sometimes compromised since "they are employees of the state" (Douglas m. Morris, MD, and Richard L. Frierson, MD, *Pro Se Competence in the Aftermath of Indiana v. Edwards*, 36 J Am Acad Psychiatry 551-557 (2008)). Obviously, such realizations would constitute awareness of an unfair conflict between a Defendant and Agents of the State necessitating self-representation for any adequate defense. Defendant, and rationally by his experience, asserts that facts demonstrate such a condition exists in this case pending (as well as others pending simultaneously).

Meanwhile, during the aforementioned administrative restraint affected throughout of Case numbered 13—003628, a total accumulation of four criminal matters have overbearingly initiated by the Yolo County District Attorney's Office. He now needs to self-represent (and in these Extraordinary Circumstances) in all four cases simultaneously. According to *Serna*, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (*Serna v Superior Court* (1985) 40 C3d 239). Meanwhile, during the aforementioned administrative restraint affected throughout of Case numbered 13—003628, a total accumulation of four criminal matters have overbearingly initiated by the Yolo County District Attorney's Office. He now needs to self-represent (and in these Extraordinary Circumstances) in three of these cases simultaneously. According to *Serna*, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (*Serna v Superior Court* (1985) 40 C3d 239). Furthermore, this Court reasoned, quoting from *U.S. v Marion*:

"Inordinate delay between arrest, indictment and trial may impair a defendant's ability to present an effective defense. But the major evils protected against by the speedy trial guarantee exists quite apart from actual or possible prejudice to an accused's defense. To legally arrest and detain, the Government must assert probable cause to believe the arrestee has committed a crime. Arrest is a public act that may seriously interfere with a Defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to (reputation harm), and creat anxiety in him, his family and friends..." (*U.S. v Marion* (1971) 404 US 307 as quoted in *Serna v Superior Court* (1985) 40 C3d 239).

PLEASE NOTE, Especially when Defendant lacked criminal record prior to series frivolous incriminations, Defendant asserts: Due respect for his Due Process Right for Innocence until Proof of Guilt demands just consideration of rational claims as presented during prior case above mentioned as Case numbered 13-0003628 – namely that facts surrounding cases evidence that charges result out of (and with a motive for) Retaliatory Malicious Overzealous Prosecution and are based on false arrests and/or frivolous, selective grounds. Here -- severe Abuse of Legal Process exists. Therefore, it would be in the interest of justice for the Court to dismiss the charge.

Whereas scheduling for Defendant's jury trial, with excessively prejudicial, procedural inefficiency, was delayed from 021821015 until 02162016; and, whereas arraignment was delayed until 12072015 hereunto; effectively, Defendant's right to Due Process and Speedy Trial under both the Constitutions of the United States of America and of California respectively since Defendant was prejudiced by the lengthy, cumulative delays. Therefore, Defendant respectfully motions this Court to dismiss the accusatory pleading.

Date: \_\_\_\_\_

\_\_\_\_\_  
James E. Horton, In Propria Persona

## PROOF OF SERVICE (Court of Appeal)

☒ Mail☐ Personal Service

Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) before completing this form. Do not use this form for proof of electronic service. See form APP-009E.

Case Name: *People of the State of California v. James E. Horton*

Court of Appeal Case Number:

Superior Court Case Number: *13-3628, 13-23865, 14-1219, 15-6705*  
*Schindler*

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My ☒ residence ☐ business address is (specify): *Indigent*
3. I mailed or personally delivered a copy of the following document as indicated below (fill in the name of the document you mailed or delivered and complete either a or b):

a. ☒ Mail. I mailed a copy of the document identified above as follows:

(1) I enclosed a copy of the document identified above in an envelope or envelopes and

(a) ☒ deposited the sealed envelope(s) with the U.S. Postal Service, with the postage fully prepaid.(b) ☐ placed the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope(s) with postage fully prepaid.

(2) Date mailed:

(3) The envelope was or envelopes were addressed as follows:

(a) Person served:

(i) Name: *The Superior Court of the State of California, County of Yolo*(ii) Address: *1000 Main Street  
Woodland, CA 95695  
phone: 530-666-8180*(b) Person served: *Yolo County District Attorney*(i) Name: *301 2nd Street*(ii) Address: *Woodland, CA 95695  
phone: 530-666-8180*

(c) Person served:

(i) Name:

(ii) Address:

☐ Additional persons served are listed on the attached page (write "APP-009, Item 3a" at the top of the page).

(4) I am a resident of or employed in the county where the mailing occurred. The document was mailed from (city and state):

Case Name: <i>People of the State of California vs. James E. Horton</i>	Court of Appeal Case Number:
	Superior Court Case Number: <i>13-3628, 13-23865, 14-1219, 15-6705</i>

3. b. ☐ **Personal delivery.** I personally delivered a copy of the document identified above as follows:

(1) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(2) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(3) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

☐ Names and addresses of additional persons served and delivery dates and times are listed on the attached page (write "APP-009, Item 3b" at the top of the page).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

02/15/2017

*James E. Horton, In Propria Persona*  
OR PRINT NAME OF PERSON COMPLETING THIS FORM

*James E. Horton*  
(SIGNATURE OF PERSON COMPLETING THIS FORM)